

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In Re:	:	
	:	Chapter 11
W. R. GRACE & CO.,	:	
et al.,	:	Case No. 01-1139 (JKF)
Debtors.	:	(Jointly Administered)

RESPONSE TO OBJECTION TO CLAIM

The United States, on behalf of its Bureau of Customs and Border Protection (“Customs”), submits this response to Debtors’ Fifth Omnibus Objection to Claims (Substantive) (the “Objection”) filed by W. R. Grace & Company, on behalf of itself and the above-captioned debtors in possession (the “Debtors”). The Objection of the Debtors should be overruled for the following reasons:

1. On or about March 27, 2003, Customs filed a Proof of Claim against W.R. Grace & Co. - Conn., a contingent claim of an undetermined amount for 53 unliquidated pre-petition entries which could liquidate for an increase in duties, pursuant to 19 CFR Part 159, if Customs administratively determines that the amount of the duties owed on these entries is greater than the amount of estimated duties paid to Customs by the Debtors. Upon information and belief, all but five of the pre-petition entries have liquidated for no increase in duties.

2. In its Proof of Claim, Customs included sufficient information to allow the Debtors to identify the entries they filed with Customs.

3. In their Objection, the Debtors seek to have the Court expunge Customs’ claim because the Debtors say that the amount on Debtors’ books/records for the agency’s claim is zero.

4. The information contained in Customs' Proof of Claim is prima facie evidence of the validity of its claim. Fed.R.Bankr.P. 3001 (f); In re Allegheny Int'l, Inc., 954 F.2d 167, 173 (3rd Cir. 1992). Thus, "[t]he burden of going forward shifts to the objector [the Debtors] to produce evidence sufficient to negate the prima facie validity of the filed claim," that is, "evidence which, if believed, would refute at least one of the allegations that is essential to the claim's legal sufficiency." In re Allegheny Int'l, Inc., 954 F.2d at 173.

5. The Debtors have not produced any evidence to show that they did not file the entries listed in the Proof of Claim, and the Debtors have merely asked that the claims be expunged because the Debtors do not show an amount owed on their books and records.

6. The Debtors have failed to meet their burden to produce evidence sufficient to negate the prima facie validity of Customs' claim.

WHEREFORE, Customs respectfully requests that the Debtors' objection be denied as to Customs' claims.

Respectfully submitted,

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/s/ Ellen W. Slights

By:

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